

canceling those dependent claims. As a result of these amendments, the dependency of claim 15, 26 and 34 also had to be corrected. Claims 13, 15-24, 26-32 and 34-39 now remain pending. No new matter has been added to the application.

Attached as an appendix is a marked-up version of the amended claims detailing the changes.

The pending claims are directed to a combination therapy invention (method and related pharmaceutical composition) described by the pending application. Support for these claims in the pending application (and in the original provisional application Serial No. 60/044,626) was detailed in the previous response (see Amendment A).

Applicants wish to thank Examiners Jagoe and Rose for the courtesies shown their undersigned representative in the interview held on 15 January 2002. At that interview, the patentability of claims 13-39 submitted with Amendment A was discussed in the context of the 35 USC 112, paragraph 2 rejections of the claims made in the November 8th Office Action and of U.S. 6,245,797, identified in an Information Disclosure Statement filed with Amendment A. At the interview and following an exposition of the antecedent support for the claimed language, the Examiner indicated that the 35 USC 112, paragraph 2 rejections would be withdrawn.

Based on the interview, amended claims directed specifically to methods and compositions wherein the COX-2 inhibitor, or its pharmaceutically acceptable salt, is used in combination with a lipid lowering drug now are presented. Use of the COX-2 inhibitor and a statin is specifically claimed.

Claims 1-12 were rejected as being anticipated by Searle WO 95/15316. The cancellation of claims 1-12 makes it unnecessary to reply to this rejection.

Claims 1-39 also were rejected as being unpatentable, under 35 USC 103(a), over Searle WO 95/15316 in view of the Merck Manual. This rejection is respectfully traversed. Again, the cancellation of claims 1-12 makes it unnecessary to reply to that aspect of this rejection.

In view of the issuance of the '797 patent, it is urged (and was urged at the interview) that subject matter embraced by applicants' pending amended claims had already been considered to be patentable by the USPTO and thus is patentable over the cited combination of documents. The possible need for instituting an interference

with the '797 patent was discussed during the interview. As described in prior Amendment A, U.S. 6,245,797, *inter alia*, claims a method for reducing the risk of developing atherosclerotic disease by using a combination of an HMG-CoA reductase inhibitor and a COX-2 inhibitor. It is our understanding that HMG-CoA reductase inhibitors are also known as statins. By virtue of the April 18, 1997 filing date of the provisional application, the '797 patent is not citable against the subject application as prior art under §§102 and 103 of the Patent Statute.

Consequently, based on the above, prompt reconsideration and full allowance of the claims pending in the subject application are respectfully requested.

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By. 

Joseph M. Skerpon
Registration No. 29,864

Banner & Witcoff
1001 G Street, N.W., Eleventh Floor
Washington, D.C. 20001-4597
(202-508-9100)